

Remarks

Applicants have carefully reviewed the Office Action mailed on March 17, 2008 and the Advisory Action mailed May 20, 2008. Applicants respectfully traverse (and do not concede) all objections, rejections, adverse statements, and adverse assertions made by the Examiner. With this amendment and Request for Continued Examination, claims 23 and 28 are amended. No new matter is added. Claims 23 and 28-32 remain pending.

Claim Rejections Under 35 U.S.C. §103

Claims 23-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heath in U.S. Patent No. 5,725,570 in view of Bellouard et al. in U.S. Patent No. 6,669,794. Please note that claims 24-27 and 33-36 are now cancelled rendering the rejection thereof moot.

Regarding claim 28, this claim is amended to recite:

23. (currently amended) An embolic protection filter
~~medical device~~, comprising:
an elongate shaft;
a filter coupled to the shaft, the filter including a filter loop
and a filter membrane coupled to the filter loop;
wherein the filter loop includes a nickel-titanium alloy; and
wherein the filter loop includes a first portion that includes
a linear elastic nickel-titanium alloy member ~~and wherein having~~
at least one localized area of flexibility ~~is defined~~ ~~formed~~ by
selectively heating an intermediate portion of the filter loop
~~member~~ to a temperature sufficient to induce superelasticity in the
filter loop and define a super elastic nickel-titanium alloy second
portion of the filter loop member, wherein the linear elastic
~~member defines a filter leg.~~

Neither Heath nor Bellouard et al. teach or suggest a filter coupled to the shaft. Furthermore, the cited art fails to teach or suggest a filter loop that includes a first portion that includes a linear elastic nickel-titanium alloy and a super elastic nickel-titanium alloy second portion. Based on these distinctions, Applicants respectfully submit that amended claim 23 is patentable over the cited art.

Regarding claims 28-32, claim 28 is similarly amended to recite:

28. (currently amended) An embolic protection filter,
~~medical device~~ comprising:

an elongate shaft;

a filter coupled to the shaft, the filter including a linear
elastic member having a linear elastic region and a localized
superelastic region;

wherein the localized superelastic region is formed by
heating an intermediate portion of the linear elastic member to a
temperature sufficient to form the localized superelastic region
within the linear elastic member, wherein the linear elastic member
defines a filter leg.

For reasons similar to what is stated above for claim 23, Applicants respectfully submit that amended claim 28 as well as claims 29-32 depending therefrom are patentable over the cited art as the cited art fails to teach or suggest all the claim limitations.

Claims 23, 25, 27-32, 34, and 36 are rejected as being unpatentable under 35 U.S.C. 103(a) over Muni et al. in U.S. Patent No. 6,375,629 in view of Bellouard et al. Please note that claims 25, 27, 34, and 36 are now cancelled rendering the rejection thereof moot.

Regarding claim 23, this claim as amended as described above. Neither Muni et al. nor Bellouard et al. teach or suggest all the limitations of amended claim 23. For example, the cited art fails to teach or suggest a filter a filter loop that includes a first portion that includes a linear elastic nickel-titanium alloy and a super elastic nickel-titanium alloy second portion. Consequently, Applicants respectfully submit that claim 23 is patentable over the cited art.

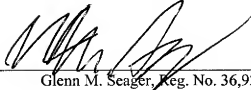
Regarding claims 28-32, claim 28 is amended as described above. For reasons similar to what is stated above for claim 23, Applicants respectfully submit that amended claim 28 as well as claims 29-32 depending therefrom are patentable over the cited art as the cited art fails to teach or suggest all the claim limitations.

Conclusion

Reexamination and reconsideration are requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is also respectfully requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Date: June 29, 2009



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